

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

INTAGIO CORPORATION,

No. C-06-3592 PJH (EMC)

Plaintiff,

v.

**ORDER RE DEFENDANT'S LETTER  
OF AUGUST 29, 2007**

TIGER OAK PUBLICATIONS, INC.,

**(Docket No. 136)**Defendant.  

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Defendant Tiger Oak Publications, Inc. has filed a letter regarding a discovery dispute over 13 e-mails dated prior to the commencement of litigation by Plaintiff Intagio Corporation. Having reviewed Tiger Oak's letter, the Court hereby **DENIES** Tiger Oak's motion to compel for the following reasons.

First, Tiger Oak has failed to demonstrate that the parties met and conferred in good faith regarding the discovery dispute. Tiger Oak claims that there was a meet and confer at the deposition of Cynthia Koral on May 15, 2007, but the so-called meet and confer consisted of a brief exchange of words between counsel. Moreover, for three months thereafter, there was no discussion of the discovery dispute between the parties. It was not until August 27, 2007, that Tiger Oak raised the discovery dispute again and, at that point, it did not meet and confer with Intagio; rather, it simply said that it intended to raise the dispute with the Court via joint letter.

Second, Tiger Oak has failed to demonstrate that it was not possible to provide a joint letter to the Court regarding the discovery dispute, as required by previous order of the Court. While discovery may be set to close on September 4, 2007, the Civil Local Rules allow parties to raise discovery disputes 7 days after the cut-off to make a motion to compel.

1 Finally, on the merits, Tiger Oak's position is not supported. At the May 10, 2007, hearing,  
2 the Court's concern was Category 2 on the privilege log, which covered "[a]ll notes, internal work  
3 product, and undistributed draft court documents, created by attorney Steven Lewicky." Joint letter  
4 of 5/8/07, Ex. A (Intagio's privilege log). Mr. Lewicky's representations regarding prelitigation  
5 documents concerned Category 2 only. They did not address Category 4, which included the 13 e-  
6 mails at issue in this discovery dispute.

7 This order disposes of Docket No. 136

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9 IT IS SO ORDERED.

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11 Dated: August 30, 2007

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15 EDWARD M. CHEN  
16 United States Magistrate Judge  
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